

MEMORANDUM FOR: IPD Case Officers

STAT FROM: [REDACTED]
Chief, Information and Privacy Division
SUBJECT: DCI Certification of Continued Classification
of National Security Information Under Executive
Order 12065
REFERENCE: OGC 80-10498

1. The reference set forth an opinion by the Office of General Counsel as it pertains to the subject of this memorandum. In practice, the criteria used for obtaining DCI certification for continued classification has been reasonably clear. While the procedure has been in use for sometime, we are now discovering complications in complying with the Executive Order in regard to the legality of our procedure should a particular FOIA/PA request needing DCI certification become the subject of litigation. To marry the legal compliance regarding DCI certification with administrative practicalities, it is proposed that IPD Case Officers follow the following procedures when encountering documents that are 20 years old or older (30 years for foreign government information) in which segregable portions or the entire document is being denied citing (b)(1) or (k)(1) as the exemption.

A. Review final responses to insure that DCI certification has been obtained when (b)(1) or (k)(1) is cited exempting the document partially or entirely.

B. Where DCI certification has not been obtained, query appropriate component to determine why it was not.

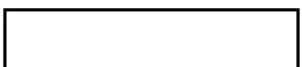
C. If the explanation offered in step 2 is not supportable under the provisions of the Executive Order, task the component to obtain the data needed for certification pursuant to [REDACTED]. For your convenience, there follows an extract of the referenced paragraph:

E.O. 12065 provides that the Director of Central Intelligence is authorized to extend classification beyond twenty years, or thirty years in the case of foreign government information. This authority may not be delegated . . . All extensions of classification beyond twenty years, or thirty years for foreign government information, must be directed personally and in writing by the DCI. Information for which any Agency component requests such extension of classification shall be listed on a Standard Form 325, which shall be forwarded to the OIS/CRD (formerly CRG) with copies of all pertinent documents attached, for submission to the DCI and his certification that continued classification is required.

(?) 4. Insure that all supporting documentation contains sufficient information for CRD to prepare Memorandum of Certification for forwarding to the DCI. When in doubt, confer with CRD.

(?) 5. Forward all necessary material and documents, when available, to C/CRD for action and suspend final response until CRD confirms by memorandum for requester's FOIA, PA or E.O. 12065 file that DCI certification has been obtained.

(?) 6. The practical aspects of administering DCI certification dictates that some common sense consideration be made. Bearing in mind our obligations under the FOIA, PA, and Executive Order to provide the requester with all relevant documents in an efficient and expeditious manner, there may arise a need to modify the procedures set forth above. For example, if the response package contains numerous substantive documents responsive to the request and less than five documents are 20 years old or older, it would probably better serve the public interest if we were to send out the response as a final while at the same time initiating procedures for obtaining DCI certification. On the other hand, if the response package contains numerous, substantive documents and half are 20 years old or older, we should send out a partial response and advise the requester that there are other documents still "being processed" and that the documents will be sent to him as soon as processing is completed.



STAT

Date

14 APR 81

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TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. C/OPS	JK	14 APR 81
2. C/ADM - NO PROBLEMS NO QUESTIONS	JP	14 APR 81
3. C/INT No problems	JH	20 APR 81
4. C/S-7	JH	4/14
5. JK C/CRO	JK	
Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

~~REMARKS~~
 WHAT IS BEING SAID HERE, IN BRIEF, IS THAT
 THRY WANT TO ~~RE~~ HAVE DCI'S CERTIFICATION
 ACCOMPLISHED AT TIME OF INITIAL REVIEW RATHER
 THAN ON APPAL, (1) FOR BETTER TIMING RATHER
 THAN LAST-MINUTE RUSH, AND (2) FOR BETTER
 COMPLIANCE WITH THE LAW. DON'T SEE THAT IT
 AFFECTS US, BUT, ANY PROBLEMS OR QUESTIONS?

JOAN: FILE DCI CERTIFICATIONS, WITH THESE
BUCKSLIPS.

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Date

04-11-1981

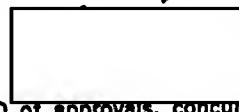
ROUTING AND TRANSMISSION CLIP

TO: (Name, office symbol, room number, building, Agency/Post)		Initials	Date
1.	[Redacted]	ABR 8 Apr 81	
2.			
3.			
4.			
5.	1A10 HQS		
Action	File	Note and Return	
Approval	For Clearance	Per Conversation	
As Requested	For Correction	Prepare Reply	
Circulate	For Your Information	See Me	
X Comment	Investigate	Signature	
XX Coordination	Justify		

REMARKS

The attached memorandum is proposed in an effort to marry the legal technicalities with the administrative practicalities in re documents processed under FOIA/PA in which (b)(1) or (k)(1) exemptions are cited.

Don, I mentioned this to you before. If you have questions, give me a call



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OPTIONAL FORM 41 (Rev. 7-76)
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FPMR (41 CFR) 101-11.206